

# **ARTICLE 1 — EQUAL EMPLOYMENT**

## **OPPORTUNITY/SEXUAL HARASSMENT POLICY**

*Revised December 2009*

[Sections 31010.1 through 31010.3 are unchanged]

### **31010.4 Responsibilities**

*Revised March 14, 2011*

#### **Assistant Secretary**

The Assistant Secretary, Office of Civil Rights (OCR), shall:

- Ensure the mission statement of the OCR is effectively implemented throughout the Department.
- Provide statewide direction in the development and implementation of the Department's EEO/Sexual Harassment policy and procedures in compliance with federal and state laws and departmental policies to ensure a work environment free of discrimination, harassment, and retaliation.
- Oversee the statewide discrimination complaint process and advise the Hiring Authorities with OCR findings and recommendations.
- Ensure the Department is in compliance with requirements mandated by external state and federal agencies including the California Department of Fair Employment and Housing (DFEH), California State Personnel Board (SPB), and the U.S. Equal Employment Opportunity Commission (EEOC).

#### **Program Manager**

Under the direction of the Assistant Secretary, the Program Manager shall:

- Provide technical assistance to the Regional Managers, OCR, relative to State and federal employment laws, relevant case law, and departmental policies.
- Develop and implement EEO/Sexual Harassment related policies and procedures and ensure compliance with State and federal employment laws and departmental policies.
- Oversee the most sensitive and/or complex cases.
- Provide direction to the Training and Program Support Unit, OCR.
- Consult with the Office of Legal Affairs (OLA) when necessary.
- Conduct research and prepare reports.
- Ensure the Disability Advisory Committee (DAC) and other EEO/Sexual Harassment related workgroups are effectively implemented throughout the Department.

#### **Regional Managers**

Under the direction of the Program Manager, the Regional Managers (Northern Regional Office, Central Regional Office, and Southern Regional Office) shall:

- Provide direction to OCR Supervising Investigators and investigators in conducting investigations.
- Maintain tracking of the pending discrimination complaints.
- Assist Hiring Authorities and EEO Coordinators within their respective regions to ensure a work environment free of discrimination, harassment, and retaliation.
- Initiate an investigation when appropriate.

#### **Supervising Investigators**

Under the supervision of the respective Regional Manager, the Supervising Investigator shall:

- Oversee investigators in conducting investigations, including providing direction, necessary training, and review of submitted reports and documents for approval. May conduct investigations when necessary based upon caseloads.
- Monitor caseloads assigned to investigators with oversight by Regional Manager.

- Adhere to CDCR's EEO/Sexual Harassment policy and procedures, the discrimination complaint process, applicable State and federal laws, departmental policies, bargaining unit contracts, and Memorandums of Understanding (MOU).
- Immediately report all problems encountered in the investigation that restrict or impede the investigator's ability to complete the investigation to the Regional Manager.
  - Submit required reports and documents to the Regional Manager within the specified time period.

### **Investigators**

Under the supervision of the respective Supervising Investigators, the investigators shall:

- Contact the complainant and verify the nature of the complaint, obtain details, and gather facts.
- Conduct and record investigatory interviews.
- Adhere to CDCR's EEO/Sexual Harassment policy and procedures, the discrimination complaint process, applicable State and federal laws, departmental policies, bargaining unit contracts, and MOU.
- Confine the investigation to the evidence relevant to the complaint.
- Immediately report all problems encountered in the investigation that restrict or impede the investigator's ability to complete the investigation to the Supervising Investigator.
- Submit required reports and documents to the Supervising Investigator within the specified time period.

### **Training and Program Support Unit**

Under the supervision of the Program Manager, the Training and Program Support Unit shall:

- Coordinate with the Office of Training and Professional Development (OTPD) in the development and delivery of EEO/Sexual Harassment Prevention training, including monitoring and evaluating the effectiveness of such training.
- Provide program support; ensure the adequacy and accuracy of training materials; identify training needs; and customize training to meet training requirements.
- Assist with the development and implementation of the Department's EEO/Sexual Harassment policy.
- Design and develop EEO/Sexual Harassment Prevention training program and materials; coordinate training with the OTPD to ensure training standards are accomplished.
- Review and analyze training materials provided by outside vendors or other organizations.
- Conduct training for EEO Coordinators and EEO Counselors; serve as a liaison between OCR and EEO Coordinators, EEO Counselors, and field training staff.
- Develop and maintain a tracking system to ensure mandated training is conducted in a timely manner.
- Complete the EEO Plan and annual Workforce Analysis Report including goals for persons with disabilities and upward mobility.
- Provide technical assistance to CDCR staff regarding EEO/Sexual Harassment issues, internal and external complaint processes, and completion of forms.
- Serve as a liaison for the Limited Examination and Appointment Program (LEAP); incorporate LEAP into training programs to encourage hiring of qualified persons with disabilities.

### **Hiring Authority**

The Hiring Authority shall:

- Assign an appropriate employee to the position of EEO Coordinator.
- Ensure discrimination complaints received are recorded by the EEO Coordinator regardless of the nature of the complaint.
- Request an administrative inquiry, via a memorandum, to the Assistant Secretary, OCR, when there is a potential EEO/Sexual Harassment policy violation.
- Review Central Intake determination letters and/or Hiring Authority referral memorandums received from the Central Intake Unit, OCR, and take appropriate action when required.

- Review case closure letters and investigative reports received from the OCR Regional Office and take appropriate action when required.
- Ensure compliance with the EEO/Sexual Harassment policy and procedures and applicable State and federal laws by all employees under their authority and take immediate and appropriate course of action as necessary.

### **EEO Coordinator**

Under the supervision of the Hiring Authority, the EEO Coordinators shall:

- Receive discrimination complaints (whether or not they are documented on a Discrimination Complaint form, CDCR 693) from an employee or applicant and initiate the discrimination complaint process following the EEO Coordinator's manual provided by OCR.
- Review the CDCR 693 and any other documents submitted by the complainant and/or EEO Counselor for accuracy and completeness.
- Provide respondent with a Notice of Complaint (formerly known as Admonishment Letter and Cease and Desist Letter) to ensure neither the alleged conduct nor retaliation is occurring.
- Notify the complainant regarding disposition of the complaint and provide the appropriate closure letter to the complainant during the Local Intervention Process.
- Forward the discrimination complaint to the OCR, when necessary.
- Serve as a liaison between employees and management to help resolve discrimination complaints by discussing problems with employees and appropriate supervisors, by advising employees on the issues, and by developing appropriate solutions.
- Select EEO Counselors and provide them with technical assistance and direction and maintain their contact information.
- Provide assistance to the OCR investigator in scheduling on-site investigative interviews and obtaining any requested documents.

### **EEO Counselors**

Under the supervision of the EEO Coordinator, the EEO Counselors shall:

- Establish and provide an open channel of communication through which employees may discuss complaints.
- Direct individuals to the appropriate procedure if the issue of the complaint does not involve an allegation of discrimination.
- Advise employees of their rights and responsibilities with regard to the internal and external discrimination complaint procedures.
- Inform employees of the EEO/Sexual Harassment policy and procedures and the discrimination complaint process.
- Receive discrimination complaints (whether or not they are documented on the CDCR 693) and forward them to the EEO Coordinator within 24 hours regardless of the complainant's desire to keep the complaint confidential.
- Conduct the Local Intervention Process (LIP) interview with the complainant and submit the completed CDCR 693 and documentation to the EEO Coordinator.

### **Managers and Supervisors**

Under the supervision of the Hiring Authority, all CDCR managers and supervisors shall:

- Maintain and promote a work environment free from discrimination, harassment, retaliation, and unprofessional or disrespectful conduct related to this policy.
- Adhere to the EEO/Sexual Harassment policy and procedures, applicable State and federal law, discrimination complaint process and ensure they are communicated to all employees under their supervision.
- Take pro-active steps to prevent unprofessional or disrespectful behavior.

- Take immediate and appropriate action to stop the conduct that violated this policy, regardless of the employee's desire to keep the issue confidential.
- Ensure that employees under their management or supervision have received EEO/Sexual Harassment training and a copy of the policy.
- Advise their employees of their rights and the process for filing an EEO/Sexual Harassment complaint.
- Notify in writing (e-mail can be used) his or her direct supervisor and the local EEO Coordinator within 24 hours of becoming aware of conduct that may violate CDCR's EEO/Sexual Harassment policy.
- Document the discussion with the employee and submit it in writing to the EEO Coordinator within three working days from the date the employee informed the supervisor of the alleged violation.
- Attend mandated EEO/Sexual Harassment Prevention training.

Failure by a manager and supervisor to adhere to the above responsibilities may result in corrective and/or disciplinary action up to and including dismissal from CDCR. Separate from any action taken by CDCR, managers and supervisors should be aware that his or her conduct may result in personal civil liability.

### **Employees**

All CDCR employees shall:

- Adhere to CDCR's EEO/Sexual Harassment policy and procedures, applicable State and federal laws, and the discrimination complaint process.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the EEO/Sexual Harassment policy.
- Report any policy violations by making a discrimination complaint as described below.
- Cooperate with any investigation conducted by OCR.
- Attend mandated EEO/Sexual Harassment Prevention training.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification. Separate from any action taken by CDCR, employees should be aware that his or her conduct may result in personal civil liability.

**[Sections 31010.5 through 31010.25 are unchanged]**

## **31010.26 Disability Advisory Committee**

*Revised March 14, 2011*

The Disability Advisory Committee (DAC) shall provide advice and assistance to the Secretary, CDCR, and Assistant Secretary, OCR, on disability issues, such as:

- Developing and maintaining EEO programs and activities for persons with disabilities.
- Making recommendations to improve the personnel practices and employment opportunities for persons with disabilities.
- Establishing contact with groups and organizations that are concerned with achieving equitable representation and utilization of persons with disabilities in the CDCR work force.
- Monitoring of disability issues identified by the committee, including but not limited to reasonable accommodation and accessibility, to ensure that necessary actions occur within reasonable time frames.
- Assisting the Department in complying with the Americans with Disabilities Act and other related statutes.

### **Membership**

The DAC shall consist of volunteers to be selected by OCR with input from current members. Every effort will be made to ensure geographic and program representation.

### **Meetings**

The DAC shall meet as called by the DAC Chairperson, and at least annually with OCR.

### **Resources**

Members of the DAC shall be primarily involved with the duties and responsibilities of their specific assignments; local administrators shall make the necessary arrangements to allow members reasonable time to perform committee activities.

**[Sections 31010.27 through 31010.29 are unchanged]**